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ORDINANCE NO. 2011-38

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUERO REGULATING THE POSSESSION, OWNERSHIP AND MAINTENANCE OF ANIMALS WITHIN THE CITY OF CUERO; REPEALING SECTIONS 90.01 THROUGH 90.16 AND 90.30 THROUGH 90.37 OF TITLE 9, CHAPTER 90 OF THE CITY OF CUERO'S CODE OF ORDINANCES ENTITLED "ANIMALS"; ADOPTING AND APPROVING A NEWLY REVISED ANIMAL CONTROL ORDINANCE; ESTABLISHING FEES FOR REGISTRATION, PERMITS, IMPOUNDMENT AND ADOPTION; PROVIDING A PENALTY FOR VIOLATION OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION; AND PRESCRIBING AN EFFECTIVE DATE.

WHEREAS, the improper maintenance and possession of animals within the City creates situations which are hazardous to the health and safety of the City's residents and to the animals; and

WHEREAS, the City Council desires to provide procedures for the enforcement of regulations for the safe maintenance of animals;

WHEREAS, the City of Cuero has existing animal control regulations as provided in Title 9, Chapter 90, Sections 90.01 through 90.16 and 90.30 through 90.37 in the City of Cuero Code of Ordinances;

WHEREAS, the City Council of the City of Cuero, Texas have reviewed the existing animal control regulations in their entirety and after careful consideration are of the opinion that said regulations should be repealed and replaced with new, updated and revised animal control regulations that are more understandable and are closer in line with state regulation;

WHEREAS, the City Council of the City of Cuero, for the purposes of providing for the safe, attractive and healthful community, and to promote the health, safety and general welfare of the community and its residents has determined that the adoption of regulations addressing the control, care and keeping of animals is necessary; and

WHEREAS, the City Council of the City of Cuero, after consideration and deliberation of this matter in a public meeting has determined that regulations set out in this ordinance fairly balances and protects the rights of both animal owners and the community at large and that the requirements imposed herein are rationally related to the regulation of the keeping of animals and legitimately regulate the activities addressed in this ordinance; and

WHEREAS, this ordinance is adopted in accordance with the authority granted to the City of Cuero by virtue of its status as a Home Rule municipality and the applicable provisions of the Texas Health and Safety Code, and other applicable provisions of state law;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CUERO AS FOLLOWS:

Section One. The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct, and are incorporated by reference herein and expressly made a part thereof, as if copied

Section Two. The City Council of the City of Cuero hereby repeals designated Sections 90.01 through 90.16 and 90.30 through 90.37 of Title 9, Chapter 90 of the City of Cuero Code of Ordinances and replaces same by the adoption of the language as follows(entitled “Animal Ordinance”):

ENACTED THAT, the following regulations for the maintenance and possession of animals within the City of Cuero are hereby enacted and as enacted shall read as follows:

**ARTICLE I
ANIMAL CONTROL**

§90.01. DEFINITIONS.

For the purposes of this ordinance; certain terms and words are hereby defined. Words used in the present tense include the future, the singular number includes the plural, and the plural the singular; reference to the male gender includes the female, and references to any person or animal without specifying gender include both male and female; the word "shall" is mandatory and directory wherever it is used in the Chapter. Other words defined are:

Animal means any living creature, except human beings, classified as a member of the Kingdom Animalia and including, but not limited to, mammals, birds, reptiles and fish.

Animal Control Facility means an establishment operated by the City or under contract to the City for the temporary confinement, safekeeping, and control of animals which come into the custody of the City.

Animal Control Officer means the person designated by the City Manager to enforce this ordinance, his authorized representatives, or any other law enforcement officer. The Animal Control Officer shall be responsible for the enforcement of this ordinance and any regulations promulgated hereunder, unless otherwise provided by law.

Animal Establishment means any facility or business that has custody or control of animals within the City of Cuero including, but not limited to, pet shops, pet grooming facilities, animal auction facilities or commercial kennels. This term does not include veterinary or medical facilities, research or other facilities licensed by government agencies.

Assistance Animal means any animal professionally trained to assist a handicapped person.

At large means an animal (excluding cats) that meets one (1) of the following criteria:

1. On premises of owner. Any animal not confined to the premises of the owner by some physical means of sufficient height, strength, length, and/or manner of construction to preclude the animal from leaving the premises of the owner. Any

animal being contained by a fence that, because of the fence's lack of height or general disrepair, cannot properly restrict the animal, shall be considered at large.

2. Off premises of owner. Any animal which is not physically and continually restrained by some person by means of a leash or chain of proper strength and length that precludes the animal from making unsolicited contact with any person, their clothing, their property, or their premises. The term shall not include animals being trained or exhibited while under the immediate physical or vocal control of a person, so long as the animal demonstrates complete and immediate compliance with all vocal commands of the person.

Bite means a puncture or tear of the skin inflicted by the teeth of an animal.

Cat means any live or dead cat (*Felis catus*); generally, a domestic feline of either sex including one neutered or sterilized.

Cats and related terms are defined as follows:

Feral Cat means any cat which is too poorly socialized to be handled (and therefore must be trapped and sedated for examination) and cannot be placed into a typical pet home.

Free Roaming Cat means cats which are not confined to the house or an enclosure and are at large.

Stray Cat means cats which are currently or recently owned which may be lost from their homes.

Dangerous Animal means:

1. Any individual animal which, because of its physical nature and/or vicious propensity, would constitute a danger to human life or property; or any animal that is possessed of tendencies to attack or to injure human beings or other animals;
2. An animal that commits an unprovoked attack on a human being; that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own;
3. An animal that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own, and those acts cause a person reasonably to believe that the animal will attack and cause bodily injury to that person; or
4. An animal that makes an unprovoked attack on a domestic animal or domestic fowl that causes bodily injury or death; and which occurs when such animal is at large.

Dangerous Wild Animal means any animal not normally considered domesticated which, because of its size, vicious nature or other natural characteristic would constitute a danger to human life, property or domestic animals, or any animal that is restricted from ownership by any state or federal law including, but not limited to, the following animals:

1. Reptiles: venomous reptiles, crocodiles or alligators;
2. Birds: emus, ostriches, rheas, and any species illegal to own under federal or state law;
3. Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, bobcats, wolves, dingoes, coyotes, jackals, elephants, weasels, martins, minks, badgers, pandas, bears, raccoons, bats, foxes, skunks, cheetahs, servals, caracals, hyenas, baboons, chimpanzees, orangutans, gorillas, any species illegal to own under federal or state law, and any animal which is, or may be here after, listed as a "high risk" animal in the Texas Rabies Control Act; or
4. Any hybrid of any animal classified as a Dangerous Wild Animal.

Department means the State Health Department.

Dog means any live or dead dog (*Canis familiaris*); generally, a domestic canine of either sex including one neutered or sterilized.

Domestic Animal means animals which are naturally tame and gentle, or which by long association with man have become thoroughly domesticated and are now reduced to a state of subjection to his or her will that they no longer possess a disposition or inclination to escape.

Estray means any unbranded sheep, cattle, horses, or mules found running at large, or any branded sheep, cattle, horses, or mules found running at large, or any swine found running at large; but it does not mean nor include any un-weaned animal specified in this section that is running with its mother.

Harbor means the act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care for a period of three days.

Identification means any acceptable method such as registration tag, or tattoo readily traceable to the current owner.

Impound means the placing of an animal in an Animal Control Facility, or, the taking into custody of an animal for the purposes of transportation to an Animal Control Facility under contract with the City.

Inhumane treatment of animals means any treatment of an animal prohibited by any provision of law, including federal, state and local laws, ordinances or rules.

Livestock means or includes, regardless of age, sex or breed, horses, consisting of all equine species including mules, donkeys, and jackasses; cows, consisting of all bovine species; sheep, consisting of all ovine species; llamas or alpacas; goats, consisting of all caprine species; and pigs, consisting of all swine species.

Sterilized means any animal, male or female rendered incapable of breeding or being bred.

Owner means any person, partnership, corporation, association or legal entity that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of household of any premises where an animal remains for seventy-two (72) hours or more shall be rebuttably presumed to be the owner of such animal, unless the animal has been reported to the Animal Control Officer as a stray animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this ordinance. If a person under the age of seventeen (17) years owns an animal subject to the provisions of this ordinance, the head of the household of which such person under the age of seventeen (17) years is a member shall be the person responsible for the animal under this ordinance. Such household head may himself be under the age of seventeen (17) years and therefore subject to prosecution under this ordinance. There may be more than one person responsible for an animal.

Pet Animal means any animal that may be kept as a pet within the City so long as all of the required provisions of this ordinance are met, and is not a Dangerous Wild Animal or a Wild Animal, including but not limited to the following animals:

1. Reptiles - Any non-venomous reptile that is not protected from ownership by any state or federal law;
2. Birds - Any birds commonly kept as pets that are not protected from ownership by any state or federal law, or any bird kept for falconry purposes by a state and federally permitted falconer;
3. Fish - Any fish commonly kept as pets that are not protected from ownership by any state or federal law; or
4. Mammals – including but not limited to: any mammal commonly kept as pets including dogs, cats, ferrets, rabbits, guinea pigs, hamsters, hedgehogs, rats, mice, chinchillas, and sugar gliders.

Public Nuisance means the conduct of any owner in allowing an animal to:

1. Engage in conduct which establishes such animal as a "dangerous animal";
2. Damage, soil, defile or defecate on private property other than the owner's or on public property, unless such waste is immediately removed and properly disposed of by the owner of the animal;
3. Be "at large" (excluding registered cats);

Dangerous Wild Animal permit, (annual)	\$25.00
Euthanasia Fee	\$15.00
Kennel Permit Application Fee	\$25.00

(b) The cost of reclaiming animals from the city Animal Control Facility shall be as follows:

Impoundment (per animal)	\$25.00 plus Boarding fee
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This fee will be reduced to \$25.00 if the impounded animal is sterilized, has a current rabies vaccination certificate, and is identified by some means of traceable identification.

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|---|---------|
| (c) Boarding fee (daily for all or part of any one day) | \$5.00 |
| (d) Small animals (swine, sheep, goats, etc.): | |
| Capture and impoundment, per head | \$25.00 |
| Boarding, per head per day | \$ 5.00 |
| (e) Large animals (cattle, horses, etc.): | |
| Capture and impoundment, per head | \$50.00 |
| Boarding fee, per head per day | \$10.00 |

(f) Citations may be issued for failure to pay applicable fees.

§90.03 DISPLAY OF PERMITS REQUIRED/INSPECTION

It shall be a violation for any person who owns, harbors, or possesses an animal that requires a permit, or for any holder of a special use permit, to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this ordinance.

§90.04 PENALTIES

- (a) Any animal that is found to be in violation of this ordinance may be impounded by the Animal Control Officer. Additionally, any person or owner who violates or fails to comply with any portion of this ordinance may receive a notice of violation from the Animal Control Officer and shall be deemed guilty of a Class C misdemeanor and may be fined in an amount not to exceed \$2,000.00 for each animal in violation. Each day of violation of this ordinance shall constitute a separate offense.
- (b) The Animal Control Officer shall have the authority to issue citations for any violation of this ordinance and any other power or duty stated within the terms of this ordinance. If the person being cited is not present, the animal control officer may send the notice of violation to the alleged offender by registered or certified mail, return receipt requested, by depositing the same

in the U.S. Mail, postage prepaid.

- (c) It shall be unlawful for any person to knowingly prevent, interfere with, or obstruct the Animal Control Officer in the performance of their duties. It shall be unlawful for any person to fail to comply with any lawful order of the local rabies control authority officer or any animal control officer of the city.
- (d) The local rabies control authority officer, any animal control officer, or any peace officer is authorized to, including but not limited to:
1. Humanely euthanize an animal which poses an imminent danger to a person or property or when a real or apparent immediate necessity exists for the destruction of an animal.
 2. Impound an animal which is diseased or endangers the health of a person or another animal.
 3. Impound any animal found to be running at large within the city.
 4. Humanely euthanize an impounded animal if the animal is suffering from injury, disease, or illness.
 5. Humanely euthanize any animal suspected of having rabies, or which animal manifests a disposition to bite, when such animal(s) is found at large after having made a reasonable, but unsuccessful, effort to capture the animal.
 6. Humanely euthanize any impounded, dangerous animal immediately upon impoundment, unless there is reason to believe that it has an owner.
 7. Humanely euthanize any wild animal immediately upon impoundment, so long as such act does not violate state or federal laws.
 8. Humanely euthanize any nursing baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, to prevent further suffering.
 9. Humanely euthanize an animal when an owner no longer wishes responsibility for an animal or believes the animal to be in an ill or injured condition upon the owner signing a waiver, supplied by the animal shelter, allowing the animal to be immediately euthanized.
 10. Humanely euthanize or transfer to a humane organization any impounded animal that is to be destroyed as a result of the animal being impounded for more than five days.
- (e) In any complaint and in action or proceeding brought for the enforcement of any provision of this ordinance, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this ordinance; and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the owner or defendant as an affirmative defense.

- (f) The City shall be entitled to pursue all other criminal and civil remedies to which it is entitled to under the authority of federal, state or local law.
- (g) No person shall interfere in any manner or give false information to the local rabies control authority, local health director, the animal control officers and other authorized employees of the City in the performance of their duties.

§ 90.05 ANIMAL VACCINATION; CERTIFICATE.

- (a) It is the duty of every person keeping a dog or cat over the age of four months to have the animal vaccinated against rabies. All dogs and cats must be re-vaccinated annually. Every veterinarian who vaccinates a dog or cat or other animal hereunder shall issue to the owner or keeper of the animal a numbered vaccination certificate and tag. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the type of vaccine used, the date of vaccination and the expiration date of the period of immunity. The tag shall be worn by the dog or cat at all times when off the premises of the person. The tag shall be serially numbered to correspond with the vaccination certificate number.
- (b) Every person who keeps a vaccinated dog or cat or other animal must exhibit his copy of the certificate of vaccination upon the demand of any person charged with the enforcement of this chapter.
- (c) No unauthorized person shall remove from any dog or cat any collar, harness or other device to which is attached a registration tag for the current year or to remove the tag therefrom.

§ 90.06 HARBORING UNVACCINATED ANIMALS.

It is unlawful for any person to keep a dog or cat which has not been vaccinated against rabies as provided herein.

§90.07 INHUMANE TREATMENT OF ANIMALS.

- (a) Animals shall be cared for, treated, maintained, and transported in a humane manner and not in violation of any provision of law, including federal, state, and local laws, ordinances, and administrative rules.
- (b) In addition, a person commits an offense if:
 - 1. A person other than a licensed veterinarian docks an animal's tail or removes dew claws of a puppy over five (5) days of age, or crops an animal's ears of any age;
 - 2. A person physically removes from its mother by selling, giving away, delivering, trading, or bartering any dog, cat, ferret, or rabbit less than six (6) weeks old or any other animal that is not yet weaned, except as advised by a licensed veterinarian;

3. A person dyes or colors chicks, ducks or rabbits;
4. A person abandons or dumps any animal;
5. A person who is in control of a motor vehicle that strikes a domestic animal fails to report the accident to the city Animal Control Officer as soon as possible;
6. A person overdrives, overloads, drives when overloaded, or overworks any animal;
7. A person tortures, cruelly beats, mutilates, clubs, or by any other means needlessly kills or injures any animal, wild or owned, within the limits of the city;
8. A person forces, allows, or permits any animal to remain in its own filth;
9. A person keeps, shelters, or harbors any animal having a potentially life-threatening infestation of ticks, fleas, or other parasites, any other obvious life threatening illness, or injury, or any other communicable illness transmissible to animal or human, without having sought and obtained proper treatment from a licensed veterinarian for such infestation or illness;
10. A person causes an animal to fight another animal or person;
11. A person fails to provide, at all times, his animal with adequate wholesome food and potable water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering;
12. A person, firm or corporation shall raise or kill a dog or cat for the skin or fur;
13. A person, firm or corporation shall mutilate any animal, whether such animal is dead or alive (medical or veterinary medical research, medical or veterinary medical necropsy, and biology class use of animals shall not be considered mutilation);
14. A person, firm or corporation attaches a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
15. A person who owns or is in control of an animal permits such animal to be at large within the City;
16. A person who creates, maintains, permits or causes a public nuisance, as defined in this ordinance; or
17. A person owns, keeps, harbors, or possesses horses, cattle, or other livestock in any manner that is a violation of this ordinance.

(c) The Animal Control Officer shall utilize the authority granted by federal, state and local laws to lawfully seize and impound any animal if the investigating Animal Control Officer or police

officer has reason to believe that an animal has been, or is being cruelly treated, pending a hearing before the municipal court judge on the issues of cruelty and disposition of the animal. Seizure of the subject animal prior to receiving a warrant is hereby authorized if such a delay endangers the life or well being of the animal, or if it would unreasonably prolong the suffering of the animal needing immediate attention.

- (d) This section shall not be interpreted to restrict the extermination of rats, mice, insects, other vermin, or any such animal deemed a nuisance by state law, through the use of traps, poisons, or other commercially available means when used in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that such use does not violate any other section of this ordinance.
- (e) This section shall not be interpreted to restrict rodeos, livestock shows and livestock show associations, livestock auctions, or the activities and operations of 4H Clubs, FFA chapters, and Agricultural Science classes.

§90.08 LEAVING ANIMAL UNATTENDED IN VEHICLE.

A person having charge or custody of an animal shall not place or confine such animal or allow such animal to be placed or confined in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death of the animal. Animal Control Officers finding an animal being held in violation of this provision may cite the owner for violating this section, obtain a search warrant pursuant to state or federal law, and/or use reasonable force to remove an animal from a vehicle whenever it appears the animal's health or safety is, or soon will be endangered, and said neglected or endangered animal shall be impounded and held pending a hearing. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the Animal Control Officer or peace officer.

§90.09 TETHERING DOGS AND OTHER ANIMALS.

It shall be unlawful for any person to tie or tether a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by the Animal Control Officer. The terms "unhealthy situation" and "potentially dangerous situation" shall include, but not be limited to the following:

1. To tether any animal in such a manner as to permit the animal access upon any public right-of-way;
2. To tether any animal in such a manner as to cause the animal injury or pain or not to permit the animal to reach shelter, food and/or water or otherwise create an unsafe or unhealthy situation;
3. To tether any animal in such as manner as to permit the animal to leave the owner's property;
4. To tether any animal in an area that is not properly fenced so as to prevent any person or child

from entering the area occupied by said animal;

5. To tether any pet animal in a manner whereby the animal is subject to harassment, stings or bites from outdoor insects, or attacks by other animals;
6. To tether any pet animal with a tether that is less than ten (10) feet in length;
7. To tether any animal with a tether that is not equipped with swivel ends;
8. To tether any animal in such a manner that does not prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving part of its owner's property;
9. To fail to remove waste from the tethered area on a daily basis;
10. To tether any animal without using a properly fitted collar or harness;
11. To use choke-type collars to tether any animal; or
12. To use a tether that weighs more than one-fifth (1/5) of the animal's body weight.

§90.10 ABATEMENT AND IMMINENT THREAT; RIGHT OF ENTRY; SEARCH WARRANTS.

(a) Animal Control Officer or other law enforcement officers shall have the power to impound animals which create an animal nuisance per se for the purpose of abating a nuisance and in cases where animal control officers have reason to believe an animal has been or is being cruelly treated, has rabies or exhibits other violations of law as follows:

1. On public property, in all cases;
2. On private property, if:
 - a. The consent of the resident or property owner is obtained, or
 - b. the officer reasonably believes there is immediate and imminent danger or peril to the public if the animal in question is not impounded, or
 - c. authorized by appropriate courts of law.
3. The officer has the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this ordinance.

(b) Any animal observed by the Animal Control Officer or peace officer to be in immediate danger, in the agent's or officer's opinion, may be removed from such situation by the quickest and most reasonable means available. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the Animal Control

Officer or peace officer.

- (c) The Animal Control Officer or assigned designee may order the abatement of the conditions which are not in accordance with this section, other applicable state or federal regulations or laws, or which otherwise constitute a nuisance. Failure to comply with the written notice constitutes grounds for the city to obtain any relief available to by law, including, but not limited to relief by injunction. Additionally, failure to comply with the written notice may subject the violator to administrative proceedings and criminal charges.

§90.11 DEFECATION OF DOGS ON PUBLIC AND PRIVATE PROPERTY.

- (a) An owner, harborer, or other person in possession of a dog commits an offense if he knowingly permits, or by insufficient control allows the dog to defecate in the city on private or public property and fails to remove and dispose of any excreta the dog deposits.
- (b) An owner, harborer, or other person in possession of a dog commits an offense if he:
- (c) Fails to have in his possession materials or implements that, either alone or in combination with each other, can be used to immediately and in a sanitary and lawful manner both remove and dispose of any excreta the dog may deposit on the property.
- (d) It is an affirmative defense to prosecution under subsection (a) or (b) that:
 - 1. The property was owned, leased, or controlled by the owner, harborer, or person in possession of the dog at the time it defecated;
 - 2. The dog was specifically trained to assist a person with a disability and was in possession of that disabled person at the time it defecated or was otherwise present on the property;
 - 3. The owner of the property or person in control of the property had given prior consent for the dog to defecate on the property; or
 - 4. The dog is a police canine being used in official law enforcement activities.

§90.12 UNABATED NUISANCES.

- (a) A "continuing public nuisance" is defined as a public nuisance that, after notice as described in subsection (c) to the owner of an animal(s) or person in control of an animal(s), continues unabated, as determined by the Animal Control Officer.
- (b) The Animal Control Officer may determine that a public nuisance exists through an investigation of any reported or perceived public nuisance, and may interview witnesses and/or conduct such hearings as he may determine are necessary, formally or informally. He shall make a determination based on the necessity to preserve the public health, safety and welfare of the community.

- (c) Upon determining that a public nuisance exists, the Animal Control Officer shall notify the animal owner or the person in control of the animal(s). This notice shall be in writing and shall contain a statement that such person has a right to appeal. The notice shall set forth the noncompliance and ordering the owner to abate the public nuisance described in such notice within seven (7) days. Notice of a public nuisance shall include, but not be limited to, written notice of the existence of a public nuisance delivered by personal service, certified mail, return receipt requested, or left at the entrance to the premises where the animal(s) is harbored. A notice that is mailed is deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.
- (d) If such owner fails or refuses to comply with the demand for compliance in the notice within seven (7) days of such notice or publication, the Animal Control Officer may order the abatement of the public nuisance by one of the following means:
1. Impoundment of the animal(s) that is the source of the continuing public nuisance and the adoption of the animal(s) as provided in this ordinance, except that the owner, his agents or representatives, or family members may not adopt the animal(s) adjudged a continuing public nuisance; or,
 2. Impoundment and humane destruction of the animal(s) that is the source of the continuing public nuisance.
- (e) An owner or person in control of the animal(s), not later than seven (7) days after the date such person is notified that an animal is a continuing public nuisance, may appeal the determination of the Animal Control Officer to the Municipal Court. Upon receiving an appeal, the Municipal Court shall hold a hearing at a time and place of their designation.
- (f) The owner or person in control of the animal(s) determined to be a continuing public nuisance shall take action to abate the nuisance within forty-eight (48) hours of an unsuccessful appeal. The failure to bring such animal(s) into compliance shall be an offense and each day thereafter that such person fails to bring such animal(s) into compliance shall constitute a separate offense. If the owner or person in control of such animal(s) fails to bring such animal(s) into compliance as provided for by the Municipal Court following appeal, such animal(s) may be impounded and put up for adoption in accordance with subsection (d) of this section or humanely destroyed.
- (g) The Animal Control Officer shall be authorized, after due process, to obtain a search and seizure warrant for the purposes of enforcing this section.

§90.13 IMPOUNDMENT AND REDEMPTION.

(a) Impoundment:

1. It is the duty of the Animal Control Officer to capture and impound such animals as are running at large or which are required to be impounded pursuant to other laws or ordinances or to protect public safety. Any officer of the city is authorized to take up and deliver in a humane manner to the Animal Control Facility any animal that may be found

running at large in the city.

2. The Animal Control Officer shall impound and quarantine all dogs, cats and other animals exposed to, suspected to be exposed to, or infected with rabies, whether the dog, cat or other animal to be impounded is at large, on a leash, or confined to its owner's premises or whether it is currently vaccinated. Any animal which a licensed veterinarian suspects of having rabies shall be humanely euthanized. Any animal exposed to a rabid animal shall be humanely euthanized or quarantined at the owner's expense for a period mandated by the Texas Department of State Health Services Zoonosis Control Division, not less than ten (10) days from the date of last known exposure.
3. The Animal Control Officer shall impound an animal when the owner of the animal has been arrested, hospitalized, is missing, or has died, and there is no person present, eighteen (18) years of age or older, who will assume the legal responsibility of providing food, water and shelter for such animal.

(d) Identification of impounded animals:

1. The Animal Control Officer upon receiving an animal for impoundment shall make a complete registry, including the species, breed, color and sex of such animal, whether it has traceable identification, and the time and place of taking custody. If the animal has traceable identification, he shall enter the name and address of the veterinary clinic, year, the number of the registration tag, and any other pertinent information. When kennel space allows, animals with traceable identification shall be kept separate from animals that do not have identification.
2. If, by registration tag, the owner of an impounded animal can be identified, the Animal Control Officer shall, as soon as possible, notify the owner by telephone or mail; however it is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.
3. Impounded animals with no means of traceable identification shall be kept for not less than five (5) days, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by this ordinance. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.
4. Animals with any type of traceable identification shall be kept for not less than ten (10) days, or not less than five (5) days from the time the owner is notified of their animal being impounded, whichever is the shorter time period, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by the ordinance.
 - a. If an animal has a tag that does not list the owner's phone number or address, and the person or business that is in possession of the owner's contact information will not release it to the Animal Control Officer, then for the purposes of this section it shall be the responsibility of that person or business

to notify the owner of the animal being impounded, and the animal shall be held for five (5) days after the Animal Control Officer contacts the person or business in possession of the owner's contact information.

- b. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.

(e) Retention of impounded animals:

1. An animal impounded at the request of a peace officer as required by this ordinance shall be kept for not less than five (5) days unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by the ordinance. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim such pets.
2. An impoundment period is not required for an animal voluntarily released to the Animal Control Officer by its owner.

(f) Redemption of impounded animals:

1. Any owner of an animal that has been impounded under this ordinance who wishes to have it returned to him shall personally visit the Animal Control Facility where it is impounded. The Animal Control Officer shall return the animal if the owner can provide sufficient proof of being the animal's owner and if such release will not impair the safety of the public or the animal. The owner of the animal must pay any and all fees set forth herein and must agree to abide by all of the requirements of this ordinance before the animal is returned. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.
2. If an animal that requires a permit or registration is impounded by the Animal Control Officer for violating this ordinance and the owner cannot prove that he is in possession of all required permit(s) or registration(s), the owner must meet all requirements of the required permit(s) or registration(s) and must purchase said permit(s) or registration(s) before the animal may be released from the Animal Control Facility.
3. If an animal that requires a rabies vaccination is impounded by the Animal Control Officer for violating this ordinance and the owner cannot prove that the animal has a current rabies vaccination, a citation for failing to vaccinate will be issued. The owner shall then have five (5) days to provide proof of obtaining a current rabies vaccination to the Animal Control Officer or else he shall be cited again for violation of this ordinance. Each subsequent day that passes after the five (5) day period shall be considered a separate offense. For the purposes of this section, a rabies tag alone is not sufficient proof of an animal's current rabies vaccination.

§90.14 DISPOSITION OF ANIMALS.

(a) The Animal Control Officer may dispose of impounded animals after the expiration of any required impoundment period by any of the following methods:

1. Adoption:

a. The Animal Control Officer shall be authorized to place for adoption dogs or cats impounded by the city under the following conditions:

- i. The Animal Control Officer shall determine whether a dog or cat is healthy enough for adoption and if its health and age are adequate for vaccination. However, such decision shall not constitute a warranty, express or implied, of the animal's age, health, or suitability for any purpose.
- ii. There will be an adoption fee for all dogs and cats at an amount set by resolution of the City Council. The fee will include the cost of sterilization, vaccination, and licensing.
- iii. All animals adopted from the Animal Control Facility shall be vaccinated against rabies, and sterilized before ownership of the animal is transferred to the adopter. If, in the opinion of a licensed veterinarian, there is a legitimate health risk justifying the delay of this surgery, the person adopting the animal shall sign a written agreement stating that they will have the animal sterilized. A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement. For the purposes of this section, a legitimate health risk cannot be based solely on the animal's age.
- iv. If an adopted animal dies on or before the sterilization completion date, the adopting person must provide written documentation to the Animal Control Officer that the animal has died.
- v. If an adopted animal is lost or stolen before the sterilization date, the adopting person must provide written documentation to the Animal Control Officer stating that the animal is lost or stolen and a police report verifying the report of theft. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the date of disappearance.
- vi. The Animal Control Officer may reclaim an adopted animal if he has not received confirmation of the sterilization as required.

2. The Animal Control Officer may offer the animal to an animal welfare group that has a signed Transfer Agreement for Dogs and Cats on file with the Animal Control Officer provided that the group sterilizes the animal prior to placing it into an adoptive home;

3. The Animal Control Officer may temporarily place the animal in a foster home that has a signed Foster Agreement for Dogs and Cats on file with the Animal Control Officer;
 4. The Animal Control Officer may humanely euthanize the animal by methods approved by the American Veterinary Medical Association or the Texas Department of State Health Services.
- (b) The choice of which of these options to use shall be made at the sole discretion of the Animal Control Officer unless otherwise mandated by a court order.
- (c) Any impounded registered or unregistered animal which appears to be suffering from serious injury or disease and which is in great pain and suffering and probably will not recover or which appears to have an infectious disease which is a danger to humans or to other animals in the opinion of the Animal Control Officer or which, due to its extremely violent nature, poses a substantial risk of bodily harm to the safety of Animal Control staff, may be humanely euthanized at any time during its holding period by the Animal Control Officer. In the event such an animal is wearing an identification tag on its collar or harness, the Animal Control Officer shall attempt to notify the owner by telephone before taking action.
- (d) It shall be an affirmative defense to prosecution of the owner if he or she can show that, at the time of its impoundment, the animal that was at large due to a major natural disaster, fire, criminal or negligent acts of a third party who was not residing at the animal owner's residence. In such event, the owner shall only be subject only to the provisions of this ordinance that require a current rabies vaccination and city registration. An owner's claim of a fire or the criminal or negligent acts of a third party must be proven in one (1) or more of the following manners:
1. A certified copy of a city police or fire report verifying the incident; or
 2. The affidavit of city police or fire personnel with direct knowledge of the incident.
- (e) It shall be unlawful for a person to fail or refuse to deliver an unregistered or unvaccinated animal to an Animal Control Officer or police officer upon demand for impounding.

§90.15 NUMBER OF DOGS AND CATS AT RESIDENCES / KENNEL PERMIT

- (a) Except as provided by this section, no residence within the city shall harbor more than four (4) adult dogs, and four (4) adult cats, over the age of sixteen (16) weeks. No residence within the city shall harbor more than one (1) litter of puppies and one (1) litter of kittens.
- (b) Any persons desiring to keep more than four (4) adult dogs, four (4) adult cats, or more than one (1) litter of puppies or kittens at premises occupied by them may apply with the Animal Control Officer for a Kennel Permit. The applicant shall pay an application fee at the time of filing. The applicant shall be subject to all provisions of the Cuero Zoning Ordinance
- (c) The Cuero Building Official is authorized to issue such a permit under the following conditions:

A permit may be issued after an inspection of the premises to determine compliance with the animal services regulations. A permit shall not be issued if it is found that the animals cannot be maintained without creating noise or odor nuisances, otherwise being detrimental to the public health, safety and welfare, or in a healthy or sanitary environment.

- (d) Such permit may be revoked by the Cuero Building Official for cause, including but not limited to, violations of the provisions of this ordinance or the inability of the permit holder to keep the animals without creating noise or odor nuisances, otherwise being detrimental to the public health, safety and welfare, or in a healthy or sanitary environment.
- (e) All Kennel Permits issued under this section shall be valid indefinitely, unless the Cuero Building Official revokes the permit. When issued, the permit shall remain the sole property of the city and shall be valid only as to the applicant and location for which it was originally issued. The permit may not be sold or transferred, voluntarily or involuntarily, to any other person or entity.
- (f) Any person either denied a Kennel Permit, or who has had their permit revoked, may file an appeal with the City Manager. Such appeal must be made in writing within ten (10) days of receiving written notice from the Cuero Building Official of the permit denial or revocation. If no appeal request is made within the ten-day period, the denial or revocation of the permit becomes final. Upon receiving an appeal, the City Manager shall hold a hearing at a time and place of their designation. Based upon such hearing, the City Manager shall make a final finding.

ARTICLE II RABIES AND ZOONOSIS CONTROL

§90.16 REPORT OF BITE CASES.

- (a) It shall be the duty of every physician or other practitioner to report to the Animal Control Officer the names and addresses of persons treated for bites inflicted by a mammal, together with such other information as will be helpful in rabies control.
- (b) It shall be the duty of every person owning or having custody of a mammal, which has bitten a human being, to report the same to the Animal Control Officer.

§90.17 ANIMAL BITES, Rabies; Quarantine.

- (a) Every veterinarian who makes a clinical diagnosis of rabies and every person who suspects rabies in a domestic or wild animal shall immediately report the same to the local health office stating precisely when and where the animal was seen and if possible where it may be found.
- (b) Any person with knowledge that an animal has bitten a human being shall immediately report the incident to the animal shelter and to the local health office. Every physician or other health care

professional who treats a person for the bite shall report the treatment to the local health office within 12 hours of the treatment. The treatment must specify the name and precise location of the person bitten.

- (c) Whenever it is shown that any dog or other animal has bitten any person, no owner or person having custody or possession thereof, upon order of the Animal Control Officer, any police officer or health officer, shall fail, refuse or neglect to take or cause to be promptly taken, the animal to a veterinarian to be held in quarantine by the veterinarian for ten days. No dog or animal shall be released from quarantine without the authorization of the veterinarian in charge. The total cost of confinement shall be borne by the owner or if the animal is a stray by the person injured. When the animal under quarantine dies, the Animal Control Department shall immediately send the head of the animal to the Health Department for a pathological examination.
- (d) A person commits an offense if the person fails or refuses to quarantine or present for quarantine or testing, an animal that is suspected of being involved in a bite. A person may be issued a citation for noncompliance or violating this provision. The Animal Control Officer shall be authorized to obtain a search and seizure warrant if there is reason to believe any requirements of this section are violated.
- (e) Should a potential outbreak of rabies within the city be suspected and the danger to the public safety from rabid animals be reasonably imminent, the Animal Control Officer with the concurrence of the Department is hereby authorized to issue a quarantine proclamation, ordering persons owning, keeping, or harboring dogs, cats or other mammals to muzzle the same or confine them for such time as may be specified in such quarantine proclamation. Upon the publication of such proclamation by local newspapers, persons owning or harboring such animals shall confine them to premises unless they are effectively muzzled and under the control of an adult person by leash, cord, chain, or rope. Animals found at large in violation of this subsection may be destroyed by an officer of the city if such officer is unable with reasonable effort to apprehend such animals for impoundment.

ARTICLE III. OTHER ANIMALS

§90.18 COMPLAINT ABOUT A DANGEROUS ANIMAL.

- (a) Upon receipt of a written complaint by any person, animal services officer, or other law enforcement officer charging that a particular animal is a dangerous animal, the Municipal Court shall conduct a hearing to determine whether such animal is dangerous unless the matter is resolved by agreement of all parties prior to such hearing. Such written complaints shall contain at least the following information:
 - 1. Name, address and telephone number of complainants and witnesses;
 - 2. A brief description of the incident or incidents which cause the complainant to believe such animal is a dangerous animal, including date, time and location;
 - 3. A description of the animal and the name, address and telephone number of the owner of

the animal, if known; and

4. Any other facts that the complainant believes to be important and relevant.
- (b) Such hearing to determine if an animal is a dangerous animal shall be conducted within ten (10) days after receipt of the complaint, impoundment, or seizure of the animal, whichever occurs later. Any animal awaiting such hearing which was impounded for being at large, was at-large when the incident that causes the dangerous animal complaint to be filed occurred, or which has bitten or scratched any other person or animal shall be boarded at the owner's expense at the Animal Control Facility or any other state approved quarantine facility pending the outcome of the hearing and determination of whether such animal is a dangerous animal.
 - (c) If the animal is quarantined at a facility other than the Animal Control Facility, the facility shall be found to be in violation of this ordinance if the animal is released to any person, lost, stolen, or otherwise not able to be accounted for unless the quarantine facility first obtains written permission from the Animal Control Officer to release the animal.
 - (d) Notice of such hearings shall be provided by the Animal Control Officer or his designee to the owner of the animal by certified mail, return receipt requested, and to the complainant by regular mail. At such hearing all parties shall be given opportunity to present evidence on the issue of whether such animal is dangerous.
 - (e) Following the hearing;
 1. the Municipal Court may find that the animal is not a dangerous animal, in which case it shall be promptly returned to its owner's custody after all impound and board fees have been paid;
 2. the court shall order the animal destroyed if the court finds that the animal caused the death of a person by attacking, biting, or mauling a person; or
 3. if the animal has not caused the death of a person, the court may, but is not required to, order the animal destroyed if the court otherwise finds that the animal is a Dangerous Animal as defined in Section 1.01 of this ordinance;
 4. if the Court determines that the animal is a dangerous animal and further determines that the animal should not be destroyed, the Court may order the animal returned to the owner if the owner has fully complied with the requirements of part (g) below.
 5. An owner or person filing the action may appeal the decision of the municipal court in the manner provided for the appeal of cases from the municipal court. The animal subject to the appeal shall remain in the custody of the Animal Control Officer pending appeal. The owner shall pay all cost of maintenance of the animal while the appeal is pending. The Animal Control Officer may bill the owner weekly for the animal's maintenance.
 - (f) Notwithstanding the provision of part (e), the court may not order the dog destroyed if the court

finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:

1. the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:
 - a. the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
 - b. the injured person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
2. the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
3. the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
4. the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
5. the injured person was younger than eight years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight years of age from entering.

(g) If the Court finds that the animal is a dangerous animal, but does not order the destruction of the animal, the Court shall order that the owner comply with one or more of the following requirements:

1. Removal of the dangerous animal from within the city limits in which case, the owner must provide, in writing, the destination address of where the animal is to reside and proof that the owner has alerted the agency responsible for animal services in that area to the Animal Control Officer prior to the animal being released from the Animal Control Facility; or
2. Registration and compliance with all of the following requirements of this article, at the owner's expense, before the animal is released from the Animal Control Facility or other state approved quarantine facility.
 - a. Obtaining liability insurance coverage or showing financial responsibility in an amount of at least two hundred and fifty thousand dollars (\$250,000.00) to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person or for damages to any person's property resulting from the keeping of such dangerous animal. A certificate of insurance or other evidence of meeting

the above requirements shall be filed with the Animal Control Officer;

- b. Registering with the City of by providing the name and address of the owner; the breed, age, sex, color and any other identifying marks of the animal; the location where the animal is to be kept if it is not at the address of the owner; and two (2) color photographs that clearly identify the dangerous animal;
- c. Having the animal sterilized;
- d. Constructing a cage, pen or enclosure for the dangerous animal that has secure sides a secure top attached to the sides, and either a secure bottom attached to the sides or embedment of the sides into the ground no less than two (2) feet. The pen or enclosure must be completely encircled by a fence constructed in such a manner as to prevent a person or child from being able to reach the animal's pen or enclosure;
- e. Not allowing the animal to go outside of its cage, pen or enclosure unless the animal is under physical restraint. No person shall permit a dangerous animal to be kept outside of its cage, pen or enclosure on a chain, rope or other type of leash unless a person is in physical control of the chain, rope or leash and the person is of competent strength to control the animal at all times. Dangerous animals shall not be leashed to inanimate objects, such as trees, posts, buildings, etc. All dangerous animals outside their cage, pen or enclosure must be securely fitted with a muzzle that will not cause injury to the animal nor interfere with its vision or respiration but shall prevent the animal from biting other animals or human beings.
- f. Posting signs giving notice of a dangerous animal in the area or on the premises in which such animal is confined. Such signs shall be conspicuously posted at both the front and rear property entrances and shall bear lettering not less than two (2) inches high, stating "DANGEROUS ANIMAL ON PREMISES." Such signs shall also display a symbol, that is understandable by small children, that warns of the presence of a dangerous animal;
- g. Providing the animal with a fluorescent yellow collar visible at fifty (50) feet in normal daylight and attaching a fluorescent orange tag provided by the Animal Control Officer to the collar that is worn at all times so that the animal can be easily identified;
- h. Registering it for life with the Animal Control Officer; and
- i. Paying the appropriate dangerous animal permit fee annually, as assessed by the City.

(h) The owner shall have fifteen (15) days from the declaration of the animal as dangerous to comply with all of the required conditions as set forth by the Court's order. If the owner fails to meet all

of the requirements, the animal may be humanely euthanized on the sixteenth (16th) day by the Animal Control Officer or a licensed veterinarian.

- (i) In the event that a registered dangerous animal escapes its cage, pen or enclosure or attacks a human being or another animal, the owner of the dangerous animal shall immediately notify the Animal Control Officer. For the purposes of this ordinance, immediately shall be defined as no less than thirty (30) minutes after the owner becomes aware of the escape or attack(s).
- (j) In the event that a registered dangerous animal dies, the owner must present the body of the animal to the Animal Control Officer or a licensed veterinarian for verification before disposal of its body.
- (k) Prior to transferring ownership in any way or moving a registered dangerous animal, either inside or outside the city limits, the owner must obtain, in writing, permission from the Animal Control Officer to transfer ownership or move the animal. If ownership of the animal is being transferred, the new owner will be required to comply with all provisions of this ordinance before the animal can be moved from the previous owner's custody. If the animal is being moved from the city limits, the owner must provide, in writing to the Animal Control Officer, the destination address of where the animal is to be moved to and proof that the owner has alerted the agency responsible for animal services in that area.
- (l) In the event that any owner of an animal declared to be dangerous violates any order of the Court, the animal may be immediately seized and impounded by the Animal Control Officer. In addition, the animal shall be seized immediately if the animal bites, injures, or attacks a human being or another animal. Any animal already declared to be dangerous which is impounded due to any violation of this ordinance or seized for causing injury to a human being or another animal shall immediately become the property of the City and shall not continue to be a registered dangerous animal.
- (m) If an owner of a dangerous animal is found guilty of an offense under this section, the Court may order the dangerous animal be humanely euthanized by the Animal Control Officer or a licensed veterinarian.
- (n) It shall be a violation for any owner of a permitted dangerous animal to refuse, upon request by the Animal Control Officer to make his/her animal(s), premises, facilities, equipment, and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this ordinance.
- (o) The owner of an animal that has been determined to be dangerous by another jurisdiction is prohibited from bringing such animal into the city limits.
- (p) The Animal Control Officer shall be authorized to obtain a search and seizure warrant if there is reason to believe any requirements of this section are being violated.

§90.19 KEEPING OF DANGEROUS WILD ANIMALS

- (a) It shall be unlawful to keep any wild animal within the corporate city limits with the following

exceptions:

1. A person and facility housing such dangerous wild animal(s) who has complied with all applicable federal, state, and local laws and regulations, including, but not limited to, the acquisition and retention of all applicable permits, prior to final adoption of this ordinance, may retain dangerous wild animals(s) in the above-described facility in compliance with all federal, state and local laws;
 2. A governmental agency or entity acting in an official capacity;
 3. A government-operated zoological park;
 4. A permitted Wildlife Educational Center, animal exhibitions with valid state or federal permits; or
 5. A holder of an Animal Dealer or Animal Establishment with a Wild Animal permit. The possessor of the Dangerous Wild Animal shall possess and present upon request all applicable state and/or federal permits required to legally possess the species in question.
- (b) Animal Establishments or Animal Dealers with Dangerous Wild Animals permit holders shall make written application to the Animal Control Officer to permanently keep each dangerous wild animal in their possession. The application must include the species and location of the animal, at least two pictures that clearly identify the animal, and proof that the center or person is in possession of the necessary state and/or federal permit(s) to possess such species.

§90.20 SALE OF DANGEROUS WILD ANIMALS

- (a) It shall be a violation for any person to sell, offer to sell, give away, offer to give away, or otherwise transfer or attempt to transfer ownership of a Dangerous Wild Animal, unless specifically allowed by some other provision of this ordinance. Any person who finds a Dangerous Wild Animal that is at large must immediately notify the Animal Control Officer. This section shall not be interpreted to restrict a person from giving ill, injured, or orphaned wildlife to a state and/or federally licensed wildlife rehabilitator or to a permitted Wildlife Educational Center.
- (b) For the purposes of this ordinance, the Animal Control Officer shall make the determination of whether any animal in question is a Pet Animal, a Wild Animal, or a Dangerous Wild Animal. In addition, for the purposes of this ordinance, immediately shall mean within thirty (30) minutes of the person finding that a wild animal or dangerous wild animal is at large.

§90.21 KEEPING OF OTHER ANIMALS; NUISANCE CONDITIONS

- (a) It shall be unlawful for any person to park or leave standing any truck, trailer, or other vehicle that has been used for the hauling of livestock, animals or fowl in a residential area of the City when notified by a city enforcement officer that such vehicle is creating a nuisance due to odors, gases or fumes. Upon such notification, the owner, operator, driver or other person responsible

for such vehicle shall move such vehicle to a location outside of any residential area of the city.

- (b) All manure and other excrement shall be disposed of in such a manner as to prevent it from becoming offensive to other persons living nearby.

§90.22 KEEPING OF HOGS OR SWINE

(a) It shall be unlawful for any person other than a veterinarian to keep any live swine within the city limits for a longer period than twenty-four (24) hours except as follows:

1. Swine kept at FFA or 4-H facilities sponsored by a public school district or Texas Cooperative Extension;
2. Swine kept at a facility owned or sponsored by a livestock show association; or
3. Swine being prepared for sale at a livestock sale facility within the City.
4. Swine awaiting slaughter at a licensed processing facility.

§90.23 ESTRAY

It shall be unlawful for any person, firm, or corporation to allow an Estray(s) to be unattended upon any public street, alley, and thoroughfare or upon the property of another in the corporate city limits. The person, firm, or corporation having ownership or right to immediate control of such Estray(s) shall have the burden to keep such Estray(s) off the public streets, alleys, and thoroughfares or the property of another in the city.

§90.24 PLACEMENT AND BAITING OF ANIMAL TRAPS

- (a) It shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any trap designed for trapping animals in any highway, street, alley or other public place within the corporate limits of the city unless specific permission by the Animal Control Officer has been granted. However, nothing in this ordinance shall prohibit an Animal Control Officer from placing such traps on public or private property as may be necessary to capture animals running at large.
- (b) It shall be unlawful for any person to remove, alter, damage, or otherwise tamper with a trap or equipment belonging to or set out by the Animal Control Officer.
- (c) Residents wishing to trap unwanted animals on personal private property may do so with the use of humane cage traps. Any trapping program must have prior written approval of the land manager or owner, and written notification of activities to the Animal Control Officer.
- (d) It shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any steel jawed trap (commonly known as a "bear trap," "wolf trap," "leg hold trap," or "coyote trap") within the corporate limits of the city.

(e) No person shall place any substance or article that has in any manner been treated with any poisonous substance in any place accessible to human beings, birds, dogs, cats or other animals with the intent to kill or harm animals. This shall include anti-freeze purposely left exposed to poison animals. This section, however, does not preclude the use of commercially sold poisons when applied in accordance with the manufacturer's directions for such use, in that person's residence, accessory structure or commercial establishment for the elimination of vermin, provided that such use does not violate any other section of this ordinance.

§ 90.25 RECORDS OF TRANSACTIONS TO BE KEPT.

It shall be the duty of the Animal Control Department to keep or cause to be kept accurate and detailed records of:

- (a) Impoundment and disposition of all animals coming into custody.
- (b) All bite cases reported to it and its investigation of same
- (c) All complaints received. Any person reporting an unvaccinated dog or cat, a dog or cat running at large in violation of this chapter or an animal declared to be a nuisance under this chapter or reporting any other violation of this chapter shall sign a sworn complaint setting out fully the facts on which the complaint is based and the sworn complaint shall be maintained in the records of the Animal Control Department.

- (d) Monies received. Records shall be kept of all monies received under this chapter and shall be open to inspection at reasonable times by persons responsible for similar records of the city and shall be audited by the City Auditor in the same manner as other city records which are audited.

§ 90.26 ANIMALS OUTSIDE CITY LIMITS.

The City of Cuero shall not accept any animal for impoundment that is found or located outside the city limits of the city. The provisions provided for in this section apply to animals found or located within the city limits of the City of Cuero only.

§90.27 ANIMALS SOLD OR GIVEN AWAY ON OR NEAR PUBLIC ROADWAYS OR PROPERTY

- (a) It is expressly prohibited for any person, firm or entity to sell or give away any animal on or near any public roadway located within the city limits of the City of Cuero, Texas.

- (b) It is expressly prohibited for any person, firm or entity to sell or give away any animal on or near any public property located within the city limits of the City of Cuero, Texas.

**ARTICLE IV
LIVESTOCK KEPT WITHIN CITY LIMITS**

§ 90.28 DEFINITIONS

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HORSE, COW, MULE, JACK, JENNET, GOAT, RABBIT, HARE and ***PIGEON*** shall be construed to include the male, female, and neuter of each species.

§ 90.29 PERMIT REQUIRED

It shall be unlawful for any person, firm or corporation to keep or harbor within the corporate limits of the city any horse, cow, mule, jack, jennet, goat, sheep, rabbit, hare or pigeon without first having applied for and obtained a permit so to do from the city.

§ 90.30 WRITTEN APPLICATION.

(a) Any person, firm, or corporation desiring to keep any animal or animals referred to in §90.22 within the corporate limits of the city shall make written application under oath to the City Health Inspector for a permit so to do.

(b) Such application shall set forth the following information:

1. The name and address of the applicant.
2. The address of the premises at which the applicant desires to keep the animal or animals.
3. The number and kind of animals desired to be kept.
4. The ground space available for harboring the animals.
5. Such other information as the City Health Inspector may require in order to comply with this chapter.

§ 90.31 ACTION ON APPLICATION; HEARING

The application shall be filed with the City Building Official, who shall inspect the premises described in the application. He or she shall determine from such inspection and from such other investigation as he or she may deem necessary whether or not the premises satisfy the requirements of this chapter and shall grant the permit or reject it as he or she may find proper under the provisions of this chapter. If the City Building Official rejects the permit, the applicant may appeal such rejection to the City Manager by filing written notice of appeal within ten days of the date of rejection. The City Manager shall conduct a hearing and hear any evidence offered by the applicant and by the City Health Inspector within 30 days after the filing of the appeal and on the basis of his or her findings shall either affirm or overrule the City Building Official's action. If he or she overrules the City Building Official, the Building Official shall issue the permit. If the City Manager fails to rule within 30 days after the date of the appeal, the ruling of the City Health Inspector shall stand as affirmed. Applicant may appeal the decision to the City Council.

§ 90.32 LENGTH OF TIME; RENEWAL

Any permit issued pursuant to this subchapter shall be valid until January 1 next after the issuance of such. All applications for renewal of the permits shall be filed within 31 days after the expiration of the permit.

§ 90.33 COMPLIANCE WITH SANITARY REGULATIONS.

The following sanitary regulations shall be complied with by any person keeping or harboring any animal or animals as defined in § 90.30 within the corporate limits of the city:

- (a) Not less than 1,600 square feet of ground space shall be provided for each horse, cow, mule, jack, jennet, goat or sheep kept or harbored within the city.
- (b) The premises upon which any horse, cow, mule, jack, jennet, goat or sheep is kept shall be fully enclosed with a good substantial fence; and every rabbit, hare or pigeon shall be kept enclosed within a good substantial fence, house, pen or other structure.
- (c) No horse, cow, mule, jack, jennet, goat, sheep, rabbit, hare, or pigeon shall be allowed on any part of the premises which is closer than 50 feet to the exterior limits of the nearest dwelling occupied by any person other than the applicant, owner or permit holder, unless the applicant, owner or permit holder shall have obtained the written consent of the owner or occupant of the adjacent dwelling or dwellings. The written consent, if obtained, shall be filed by the applicant with his or her application for permit and shall remain on file at the City Hall. The written consent may be withdrawn by the owner or occupant or any subsequent owner or occupant of the adjacent dwelling or dwellings at any time.
- (d) All grounds, barns, sheds, stalls, standings, hutches, houses, roosts or other structures used for the harboring, housing or feeding of any animal(s) shall be cleaned daily and shall be treated with some effective fly-breeding control frequent enough to prevent breeding of flies on the premises.
- (e) All premises shall be well graded and drained and water shall not be allowed to stagnate on the premises.
- (f) All manure and other animal wastes from any horse, cow, mule, jack, jennet, goat, sheep, rabbit, hare or pigeon shall be removed from pens, corrals, standings, picket-lines, houses, barns, hutches or roosts at least once in every 24-hour period. The material shall be deposited in a manure storage bin of concrete or metal construction provided with a fly-tight cover which shall be kept closed at all times. The manure and other animal wastes shall be removed from the bin at least once every seven days and removed from the corporate limits of the city by the permit holder. The animal materials shall not be picked up by the city garbage collectors.

§90.34 INSPECTION OF PREMISES; VIOLATIONS PROCEDURE.

It shall be the duty of the City Health Inspector to make frequent inspections on all premises on which any animal or animals may be kept or harbored. If it shall appear to the City Health Inspector that any person holding a permit to keep the animal or animals is violating any provision of this chapter, he or

she shall forthwith notify the City Manager in writing of his or her findings. The City Manager shall notify the permit holder to appear before him or her to show cause why the permit should not be revoked and shall conduct a hearing to determine the facts. Upon the conclusion of the hearing, the City Manager may revoke the permit if he finds that the holder has violated any provision of this chapter. Applicant may appeal the decision to the City Council. Otherwise, the permit shall continue in full force and effect until its normal expiration date.

§ 90.35 EXEMPTION.

All livestock shows or exhibitions shall be exempt from the provisions of this subchapter.

PART 2. SEVERABILITY CLAUSE.

If any section, sub-section, clause, phrase or portion of this ordinance shall be held unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence, clause, phrase or portion shall be deemed to be a separate, distinct and independent provision and such invalidity shall not affect the validity of the remaining portions.

PART 3. REPEAL.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

PART 4. PUBLICATION.

The City Secretary is authorized and direct to publish the caption and penalty prescribed by this ordinance in accordance with State Law.

PART 5. EFFECTIVE DATE.

This ordinance shall be in force and effect from and after its publication.

PASSED AND APPROVED on third and final reading this the 28th day of November 2011.

UPON MOTION OF COUNCILMEMBER ALLEN, SECONDED BY COUNCILMEMBER FUQUA, THAT THE ORDINANCE BE ADOPTED ON FIRST READING. AYES: 7 NAYES: 0 MOTION CARRIED THIS 1st DAY OF NOVEMBER 2011.

UPON MOTION OF MAYOR PRO TEM MATTHYS, SECONDED BY COUNCILMEMBER JOHNSON THAT THE ORDINANCE BE ADOPTED ON SECOND READING. AYES: 5 NAYES: 0. MOTION CARRIED THIS 22ND DAY OF NOVEMBER 2011.

UPON MOTION OF COUNCILMEMBER _____, SECONDED BY COUNCILMEMBER _____, THAT THE ORDINANCE BE ADOPTED ON THIRD AND FINAL READING. AYES: _____ NAYES: _____ MOTION CARRIED THIS 28TH DAY

OF NOVEMBER 2011.

**SARA POST MEYER
MAYOR**

ATTEST:

**LISA LEY
CITY SECRETARY**

APPROVED AS TO LEGALITY:

**JAMES K. CRAIN, III
CITY ATTORNEY**